



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 15, 1996

Mr. Jerald D. Sebek
Bellaire Police Department
5110 Jessamine Street
Bellaire, Texas 77401

OR96-1137

Dear Mr. Sebek:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100149.

The Bellaire Police Department (the "department") received a request for "call for service log, or a blotter log, or daily activity report, which contains only accident reports...would like this on daily basis." You ask for a decision as to whether the department must provide this information to the requestor and whether you must provide the information to the requestor in the form requested.¹

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. In the recent legislative session, the legislature enacted House Bill 391, which places certain restrictions on the general public's access to "all *accident reports* made as required by [V.T.C.S. art. 6701d] or [V.T.C.S. art. 6701h]."² Act of May 27, 1995, 74th Leg., R.S., ch. 894, §1, 1995 Tex. Sess. Law Serv.

¹ You also state that the department has received verbal requests for information similar to that requested here. You argue that section 552.108 of the Government Code excepts this information from disclosure. We need not, however, address your argument under section 552.108. A governmental body's duty under section 552.301(a) of the Government Code to request a ruling from the Attorney General arises only after it receives a written request. Open Records Decision No. 304 (1982). Thus, the department should request a ruling on the specific, written requests when you receive them. You should argue your stated exceptions at that time.

² Effective September 1, 1995, these statutes were repealed and replaced as part of the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, § 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71 (Vernon). The legislature did not intend a substantive change of the law but merely a recodification of existing law. *Id.* § 25, 1995 Tex. Sess. Law Serv. at 1871.

4413 (Vernon) (emphasis added). Specifically, House Bill 391 provides that a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request *only* to, among others, a person who provides the law enforcement agency with two or more of the following: (1) the date of the accident, (2) the name of any person involved in the accident, or (3) the specific location of the accident. *Id.*

House Bill 391, however, specifically applies only to "accident reports" contemplated by article 6701d, V.T.C.S., or article 6701h, V.T.C.S. As a service log or a daily activity report is distinct from "accident reports" that are addressed in House Bill 391, this law does not apply to the requested Calls For Service Log. See Open Records Decision No. 478 (1987) (as a general rule, statutory confidentiality requires express language making particular information confidential).

You state that the requester may intend to use the requested calls for service to gain information that will enable her to obtain accident reports. You express concern that the requester will thus undermine the intent of House Bill 391. Section 552.222 of the Government Code prohibits the inquiry by the governmental body into the motives of the person applying for inspection or copying of records. See Open Records Decision No. 542 (1990). Consequently, the requester's motives for obtaining these records are not relevant to an analysis as to whether the records are subject to required public disclosure. *Id.*

You have not demonstrated that the requested records are excepted from required public disclosure. Accordingly, the department must release the requested information. We note, however, that a governmental body is not required to comply with a continuing request to supply information on a periodic basis. Attorney General Opinion JM-672 (1983); Open Records Decision Nos. 476 (1987); 465 (1987).

You also state that the department is unable to produce a report which complies with the request. You explain that the department's software program will generate a service log list, but it will not produce a list which contains only accident reports. In the last legislative session, the legislature substantively amended chapter 552 of the Government Code. Act of May 29, 1995, 74th Leg., R.S., ch. 1035, § 1, 1995 Tex. Sess. Law Serv. 5127 (Vernon). As part of this revision, the legislature added section 552.231, which provides:

(a) A governmental body shall provide to a requestor the written statement described by Subsection (b) if the governmental body determines:

(1) that responding to a request for public information will require programming or manipulation of data; and

(2) that:

(A) compliance with the request is not feasible or will result in substantial interference with its ongoing operations; or

(B) the information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

(b) The written statement must include:

(1) a statement that the information is not available in the requested form;

(2) a description of the form in which the information is available;

(3) a description of any contract or services that would be required to provide the information in the requested form;

(4) a statement of the estimated cost of providing the information in the requested form as determined in accordance with the rules established by the General Services Commission under Section 552.262; and

(5) a statement of the anticipated time required to provide the information in the requested form.

(c) The governmental body shall provide the written statement to the requestor within 20 days after the date of the governmental body's receipt of the request. The governmental body has an additional 10 days to provide the statement if the governmental body gives written notice to the requestor, within 20 days after the date of the receipt of the request, that the additional time is needed.

(d) On providing the written statement to the requestor as required by this section, the governmental body does not have any further obligation to provide the information in the requested form or in the form in which it is available until the requestor states in writing to the governmental body that the requestor:

(1) wants the governmental body to provide the information in the requested form according to the cost and time parameters set out in the statement or according to other terms to which the requestor and the governmental body agree; or

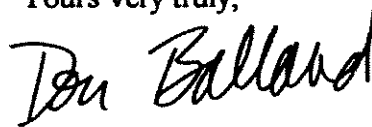
(2) wants the information in the form in which it is available.

(e) The officer for public information of a governmental body shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A governmental body shall maintain a file containing all written statements issued under this section in a readily accessible location.

If the department has made the determination set out in subsection (a), the city must follow the requirements of section 552.231. If the city has not provided this notice to the requestor, the city should do so immediately. As the city has raised no other exception to disclosure, the city may not withhold the requested information if it cannot make the determination provided for in subsection (a).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref.: ID# 100149

Enclosures: Submitted documents

cc: Ms. Alma Bueno
Paradise Travel Agency
Carrollton, Texas 75006
(w/o enclosures)